

1 27. **ISSUE: HENDERSHOTT LIED ABOUT HIS INVOLVEMENT IN THE SALES**
2 **OF PINK UNDERWEAR – SUBJECT: HENDERSHOTT**
3

4 **Chief Deputy David Hendershott**
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6 H22A. Allegedly, circa 1998, Chief Deputy David Hendershott lied about his
7 involvement in the sales of pink underwear, which had been coordinated by
8 Deputy Chief Frank Munnell at Hendershott's direction. Hendershott later
9 criticized Munnell because during a deposition, Munnell advised that he had
10 been told by Hendershott to stop the sale of underwear by the Enforcement
11 Support Division, due to media scrutiny.
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13 **MUNNELL'S WRITTEN ACCOUNT**
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15 **Hendershott lies about his involvement in the sales of Pink Underwear**
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17 Although Chief Hendershott coordinated the initial purchase and sale of the pink underwear back
18 in 1995, my involvement began when I walked into Chief Hendershott's office and a female posse
19 member asked him what to do with a bag of cash proceeds from the sale of the pink underwear.
20 Hendershott told her to give the bag to me. I then told Hendershott that the distribution and sales
21 should be handled entirely by posse members and I didn't want that responsibility because I knew
22 that one day we might be accused of mishandling or stealing the money. Hendershott did not agree
23 with me and I was ordered to coordinate the purchasing, sales, and collection of revenue from the
24 underwear sales.
25

26 I met with Hendershott on a later date and again told him that I did not want to be responsible for
27 the sales. Further, I considered myself the "de facto treasurer" of the Posse Foundation because I
28 was making all of the cash deposits and was tracking the Posse Foundation finances on my county
29 computer. Hendershott countered that since I did not actually sign the checks written on the Posse
30 Foundation account, that I wasn't the treasurer, and again refused my request to turn over the
31 responsibility of the pink underwear sales effort to total volunteer control.
32

33 During this time, Hendershott was very closely involved in the coordination of the pink underwear
34 sales effort and often made phone calls to me and other employees regarding such mundane issues
35 as posse members running low on a certain size of pink underwear. An example of this obsession
36 was an occasion when a volunteer at the Paradise Valley Mall was running short of a certain size.
37 Sgt. Markley Johnson was only blocks away with additional underwear but he was tied up
38 temporarily to assist a citizen in a traffic accident. Hendershott, in a panic because you were there
39 signing the underwear, did not want to wait and immediately ordered that another employee
40 respond, immediately, all the way from the Enforcement Support Division (on Durango Street)
41 and bring more underwear to the Paradise Valley Mall.
42

43 We routinely provided sales information to the media related to the sales of pink underwear and
44 the finances of the Sheriff's Posse Foundation, one day, out of now where, Hendershott told me
45 we no longer would provide such information. The Phoenix New Times then filed a lawsuit to
46 obtain the information and as a result, the attorneys for the New Times eventually summoned me
47 to a deposition. During the course of my deposition, I stated that we no longer sold underwear
48 from the Enforcement Support Division, at the direction of David Hendershott, due to his concerns
49 about "media scrutiny."
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MCSO Investigation No. M081710, Principals: Hendershott, Black and Fox
Report of Administrative Investigation by PCSO
April 11, 2011

1 The *Phoenix New Times* then published an article on April 2, 1998 that described my statement
2 regarding Hendershott's order to discontinue underwear sales at Enforcement Support. That same
3 day, I received a phone call by Hendershott and was ordered to report to his office. Upon arrival, I
4 sat down and a furious David Hendershott slammed a copy of the *New Times* on his desk and
5 stated "thanks for sticking it up my ass!!" I briefly tried to explain myself and quickly left his
6 office. I was very upset by Hendershott's anger that was directed at me, and was furious that he
7 actually expected me, a sworn law enforcement Officer, to withhold information or lie during a
8 sworn deposition to protect him.

9
10 On March 17, 1998, Superior Court Judge Albrecht in a summary judgment ruled in favor of the
11 Sheriff's Posse Foundation and the Sheriff's Office. This ruling was probably in large measure to
12 the sworn affidavit filed by our attorneys that included a sworn statement by Hendershott stating
13 that he did not directly participate in the sales of the underwear. *However*, when Hendershott was
14 later deposed under oath, he finally admitted that he was involved in both the transportation and
15 sales of the pink underwear.

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17 **WITNESSES LISTED BY MUNNELL**

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19	Deputy Chief Frank Munnell	Knew of Hendershott's active role in sales.
20	Director Rollie Seebert	Knew of Hendershott's active role in sales.
21	Lieutenant Markley Johnson	Knew of Hendershott's active role in sales.
22	Executive Chief Brian Sands	Knew of Hendershott's active role in sales.
23		

24 **NARRATIVE SUMMARY**

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26 Hendershott insisted that Munnell be responsible for coordinating the purchasing, sales
27 and collection of revenue from the sales of pink underwear even though Munnell
28 resisted. Munnell was called by The *Phoenix New Times* as a witness to testify about
29 the sales and Munnell was deposed. On 4/2/98, The *Phoenix New Times* published an
30 article describing Munnell's statement that Hendershott told the Enforcement Support
31 Division to stop the sale of underwear due to "media scrutiny." Hendershott yelled at
32 Munnell, saying, "thanks for sticking it up my ass!" MCSO attorneys submitted a sworn
33 affidavit stating Hendershott did not directly participate in the marketing of the
34 underwear.

35
36 **WITNESS ACCOUNTS**

37
38 **Frank Munnell**

39
40 Munnell's explanation relating to this event is as follows.

41
42 A: Well, I was the Sergeant in charge of like the Posses and stuff like that or
43 working down there with the Posses, and what happened was, I go into
44 Hendershott's office, I know somebody else had worked on it, I hadn't really seen
45 pink underwear, I knew that they were starting to print a few pair and do
46 something with it. And I go into Hendershott's office in the afternoon, there's
47 this female Posse, she has a paper sack. And she's like, who do I give this to? He
48 goes, oh, give it to Sgt. Munnell, well it's full of cash. So she leaves and I go,

1 Dave, I go, we've got to let the Posse handle this man, we can't be dealing with
2 this. They're going to accuse us of taking this money. I mean money coming in
3 in paper bags and all this. I don't really, you know, want to be involved in that.
4 And of course he's like, hey, no big deal, it's fine, just do it. You know, we're
5 going to coordinate this. So now, this thing really took off. We got cash coming
6 in here and from everywhere. It's like a crazy bake sale gone crazy because
7 you've got Posse men that are at Wal-Marts, they're in malls, they're everywhere,
8 selling this pink underwear and there's no real tracking. I tried buying receipts. I
9 took Posse Foundation money and I got these receipt books, well, it's crazy, you
10 got a Posse man sittin' there with 20 people in line, he's not going to write
11 receipts. So that didn't work. So I got a money program with the Posse
12 Foundation money, put it in the computer and I started tracking it, and we'd get
13 the cash delivered to us, from these Posse people and then I'd deposit it. We
14 would count this money and I remember going to Norwest Bank, sometimes \$40
15 grand at a pop. And I had to put my name, social security number, that I was
16 depositing it. So we're putting all this money in there and I'm working with the
17 Posse Foundation, so I'm telling them, you know, well, we need this money for
18 this Posse or this, and so basically I would tell them what we need and they'd
19 write the check, but I was keeping all the tracking of the money, I was really the
20 treasurer. So I reapproached Hendershott, I go, look, I'm really the treasurer of
21 this, Dave. I said, I really don't think we should be doing this. I mean, you know,
22 I said this isn't a good situation and he's like, you know what, are you signing the
23 checks? And I go, no, he goes, well then you're not the treasurer, you know, like,
24 quit bitchin' about it. So, I knew eventually it was going to come around to bite
25 us and that's what happened, is that when Tom Bearup got into hot water with the
26 Sheriff, and he quit, he said, oh, yeah, 'cause he, I remember him one time
27 walking down the hall and he saw us counting this money, I knew one of these
28 days he was going to make an issue, and that's what he did. And it became the
29 missing money and all this kind of stuff and there was a safe in Dave
30 Hendershott's office. There was never a safe in his office. And I've heard
31 rumors, not even too long ago that maybe he, some Posse people have talked to
32 the Feds or something, or somebody that maybe Hendershott had money delivered
33 directly to them, from them to Hendershott. Who knows if that's true. I don't
34 know. I have no knowledge about that. (pp. 85-86, Exhibit II 28b)

35
36 **Rollie Seebert**

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38 According to Seebert, who was working in Enforcement Support at the time,
39 Hendershott was intimately involved in the sale, coordination and collection relating to
40 the sale of pink underwear. As Seebert put it, "His main driving force, that I know of,
41 was to get, make sure underwear were being sold wherever the Sheriff was." (p. 47,
42 Exhibit II36)

43
44 Seebert provided more specific and detailed information relating to Hendershott's
45 involvement in coordinating the sale of pink underwear.

1
2 A: Dave called me in at an ASU/U of A game and told me to get the
3 Posse guys out, start making phone calls to find people to be in all the Wal-Mart
4 locations the next morning, Saturday morning. And of course it was 8:00 at night,
5 and I told him, are you crazy? And he hung up on me. And I called him back and
6 said, look, do we not get everything done? Yes, we do. So, it doesn't do you any
7 good to hang up, come on, we'll get people out there, and so he just, he said I just
8 want to get it done, to me at that time. And so, on another occasion, he called me
9 because we had a Posse man not show up and screamed at me on a Saturday
10 morning, and my wife listened in to that conversation, and yelling and cussing
11 about how we're not getting it done, bla, bla, bla. So he was really involved in
12 the, in trying to push to get all that underwear sold.

13
14 Q: What did he call and yell and you about on this last occasion you just
15 described?

16
17 A: Why we didn't have a Posseman at a certain location, where the Sheriff
18 happened to be. It seemed like, you know, for whatever, as luck goes,
19 occasionally when the Sheriff had a public appearance, Possemen wouldn't be
20 there, they'd be late, remember they're all volunteers, and they all have their own
21 lives, and so, you know, you just can't force them to do everything. So he was
22 very involved in locations, alright, now, the collection of the money, there was no
23 real system set up for it, other than here's a hundred pair of underwear, give us the
24 money back when you sell them. So that could have been rampant, I mean when
25 you really get down to it, and that's what Frank told Dave right off the bat. We
26 shouldn't be doing this. It's going to look bad. But, Dave said no, you know, I
27 don't know what he said, but that was between him and Munnell. All I know is
28 we kept collecting the money and I think between about the 28th of October and
29 the 5th or 6th of January we collected over half a million dollars for the sale of pink
30 underwear. (p. 48, Exhibit II36)

31
32 During this time, the Posse Foundation was being set up, and until the foundation took
33 over, as Seebert put it, "Frank and I and several other people counted it [the money
34 from the sales] until we were blue in the face. And then Frank did all the depositing, he
35 was in charge of it." (p. 49, Exhibit II36) Seebert was unaware of any persons, including
36 Hendershott, who were unjustly enriched by the underwear sales.

37
38 **Dave Hendershott**

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40 Hendershott indicated that in connection with litigation at the time, he gave a deposition,
41 and commented that it would be more accurate than his present recollection. He also
42 indicated that he had indeed instructed Munnell to stop the sale of pink underwear, but
43 not due to media scrutiny, but because of the lawsuit. Hendershott indicated that he
44 wanted to make sure that MCSO was not doing anything that was contrary to a judge's
45 findings, and the judge ruled that it was permissible to continue the sales.

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2 The PCSO team read to Hendershott passages from the Munnell Memo, reflecting that
3 the *Phoenix New Times* had published an article on April 2, 1998, describing Munnell's
4 statement concerning Hendershott's order to discontinue underwear sales at
5 Enforcement Support. According to the Munnell Memo, that same day Munnell
6 received a call from Hendershott and was ordered to report to his office. Munnell
7 reported that Hendershott was furious, slammed a copy of the *New Times* on his desk,
8 and stated, "thanks for sticking it up my ass."

9
10 Hendershott denies having made the comment attributed to him by Munnell.
11 Hendershott did not recall whether Munnell had indeed made some comments to the
12 *New Times*.

13
14 A subsequent passage in the Munnell Memo was read to Hendershott, which basically
15 asserted that Hendershott had signed a sworn affidavit stating that he did not directly
16 participate in the sales of the underwear, and later when Hendershott was disposed
17 under oath, he admitted that he was involved in both the transportation and sales of the
18 underwear. Hendershott did not remember having executed an affidavit, but does not
19 deny that he did. He does not deny that the affidavit stated that he did not participate in
20 the sale of the underwear. Hendershott said that there were a few small instances (see
21 p. 30 of Exhibit II16e) where he was indirectly involved in sales of a few items of pink
22 underwear. These were the instances that he had acknowledged in the deposition
23 where he had been involved in the sale of pink underwear. He also indicated in the
24 deposition that, when his son was on the baseball team, he did go out with his son to a
25 grocery store, while his son tried to sell underwear to people buying groceries.

26
27 When asked about this apparent conflict, between what the affidavit stated and what
28 Hendershott said in his deposition, Hendershott provided the following explanation.

29
30 A: Well. The best answer I can give is that in order to, I mean, all of that
31 would be something that could be reviewed from a paper perspective. If there's
32 an affidavit it exists somewhere. And the deposition certainly exists. Okay? And
33 from my perspective did I involve myself in the sale of pink underwear as I know
34 it, you know, and I suppose it depends on your definition of involve yourself. I
35 didn't go out and stand in malls and sell underwear. Okay? And so to that extent
36 I didn't involve myself. But, I did early on make orders. Okay? Because I was
37 concerned that, uh-oh, you know, this isn't, you know, you don't want to be, I
38 think the first order was like \$3,000.00 or something like that. And I thought, oh
39 man, what if this doesn't sell, okay. It was really, really a small order to see if it
40 would, you know, it would even be something that someone would care about.
41 And then, I'm sorry, what did he say happened in the deposition?

42
43 Q: Well, in the deposition that you did acknowledge that you had
44 involvement in the transportation and sales of the pink underwear.
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1 A: Well, have I had pink underwear in my car? Yeah. Those three that I told
2 you about. I certainly didn't haul around boxes and boxes and boxes of
3 underwear. I know that didn't happen. Yes. I did participate with my son when
4 he was doing his share of the selling. I suppose you could say that when I would
5 go out with the Sheriff to malls and stood and made sure nobody punched him in
6 the face or something that was probably participating in the sale of pink
7 underwear, but if you get right down to it, was I hawking the underwear?
8 Absolutely not. (p. 31, Exhibit III16e)
9